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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,069	05/26/2005	Stephanie Wald	U 015600-5	7590
140	7590	03/31/2010	EXAMINER	
LADAS & PARRY LLP 26 WEST 61ST STREET NEW YORK, NY 10023			LE, KHANH H	
			ART UNIT	PAPER NUMBER
			3688	
			NOTIFICATION DATE	DELIVERY MODE
			03/31/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

nyuspatactions@ladas.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/522,069	<b>Applicant(s)</b> WALD ET AL.	
	<b>Examiner</b> KHANH H. LE	<b>Art Unit</b> 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01/15/2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23, 72-84, 92, 95-97, 99-101, 106-108 and 110 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23, 72-84, 92, 95-97, 99-101, 106-108 and 110 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 72, 95, 106 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

1. This Office Action is responsive to the correspondence filed 01/15/2010. Claims 1-23, 72-84, 92, 95-97, 99-101, 106, 107, 108, and 110 were and remain pending. No claims are added. (Claims 24 - 66, 85 - 81, 93, 94, 98, 102 - 105, 109, 111, 112 had been cancelled).

### ***Election/Restrictions***

2. “37 CFR 1.142(a), second sentence, indicates that a restriction requirement “will normally be made before any action upon the merits; however, it may be made at any time before final action ...” See MPEP 811. This means, even though the examiner should make a proper requirement as early as possible in the prosecution, in the first action if possible, she can make a further restriction as soon as the need for a proper requirement develops. Here, there will be a serious burden if further restriction is not required.

3. Restriction is required under 35 U.S.C. 121 and 372. This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1. In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

4. **Group I, claim(s) 1-23, 73-84, 92, 96-97, 99-101, 107, 108, and 110** drawn to an advertising control method and apparatuses for receiving an advertisement identification

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message (AIM) at a first mobile device; sending the AIM from the first mobile device to a content display unit (CDU) and storing the AIM in the CDU; selecting at least one content item from among a plurality of content items based, at least in part, on at least one stored AIM, the stored AIM being stored in the CDU; and displaying the selected content item on the CDU.

**Group II, claim(s) 72, 95,106**, drawn to an AIM distribution terminal, means therefor, and method for receiving AIM's from a distributing authority, storing on the terminal and dispensing AIM's to mobile devices .

**5. The inventions listed as Groups I, and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:**

Group II's special technical feature is an AIM distribution terminal, means therefor, and method for receiving AIM's from a distributing authority, storing on the AIM distribution terminal and dispensing AIM's to mobile devices which is not present in Group I.

Group I's special technical feature is receiving advertisement identification message (AIM) to mobile device, therefrom to a content display unit (CDU), where it is stored, then selecting a content item based on the stored AIM and a category associated with the content item, which is not present in Group II.

**6.** Because Groups I and II lack the same or corresponding special technical features for the reasons given above and the inventions require a different field of search, restriction for examination purposes as indicated is proper.

**7.** Since the restriction is complex and the examiner knows from past experience that an election will not be made by telephone, this restriction is proper under MPEP 812.01.

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8. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

9. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

**10. The period for reply to this Restriction requirement is one (1) month. (See MPEP 809.02( a )).**

11. Applicants' remarks filed 01/15/2010, will be addressed after a response to the instant restriction requirement. The rejections presented in the last Office Action stand until such time.

### ***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 571-272-6721. The Examiner works a part-time schedule and can normally be reached on Monday-Wednesday 9:00-

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6:00. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, LYNDIA JASMIN can be reached on (571)272-6782. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-3600. For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314). Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Khanh H. Le/

Primary Examiner, Art Unit 3688